

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

ROGER CHARLES DAY, JR.,)
Petitioner,)
v.) No. 2:20-cv-00362-JPH-DLP
T. J. WATSON,)
Respondent.)

Entry Directing Further Proceedings

The petitioner brings the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. To proceed under § 2241, a motion pursuant to 28 U.S.C. § 2255 must be "inadequate or ineffective to test the legality of his detention." 28 U.S.C. § 2255(e). Section 2255 is inadequate or ineffective if the following three requirements are met: "(1) the petitioner must rely on a case of statutory interpretation (because invoking such a case cannot secure authorization for a second § 2255 motion); (2) the new rule must be previously unavailable and apply retroactively; and (3) the error asserted must be grave enough to be deemed a miscarriage of justice, such as the conviction of an innocent defendant." *Davis v. Cross*, 863 F.3d 962, 964 (7th Cir. 2017).

The petitioner's petition for a writ of habeas corpus does not appear to make him eligible to proceed under § 2241 because the three requirements set forth above are not met. Accordingly, the petitioner shall have **through October 15, 2020** to show cause why his petition should not be dismissed with prejudice pursuant to 28 U.S.C. § 2255(e).

SO ORDERED.

Date: 9/18/2020

James Patrick Hanlon

James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

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